

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

BLUE BELL CREAMERIES, L.P.,  
Plaintiff,

v.

DENALI CO., LLC and  
DENALI FLAVORS, INC.,  
Defendants.

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CIVIL ACTION NO. H-08-0981

**ORDER OF PRELIMINARY INJUNCTION**

For the reasons stated in the accompanying Memorandum and Order, it is hereby

**ORDERED** that Denali Co., LLC and Denali Flavors, Inc.’s (collectively, “Denali”) Motion for Preliminary Injunction [Doc. # 11] is **GRANTED**. Blue Bell Creameries, L.P. (“Blue Bell”), its parent(s) and divisions and subdivisions, and their employees, servants, agents, licensees, prospective licensees and all others acting in concert with them are enjoined, during the pendency of this litigation and until further order of the Court, from:

1. using the “Mooo Tracks” mark or any other mark which is a colorable imitation thereof, in connection with the advertising, marketing, manufacture, distribution or sale of ice cream, ice cream novelties, or any ice cream-related product; and

2. otherwise competing unfairly with Denali and their licensees, through the use of the “Mooo Tracks” mark identified in the parties’ pleadings, in connection with the advertising, marketing, manufacture, distribution or sale of ice cream, ice cream novelties, or any ice cream-related product.

It is further **ORDERED** that, notwithstanding the foregoing, Blue Bell is allowed to sell “Mooo Tracks” product that was already in stores or on a delivery truck at 5:00 p.m. on Thursday, July 24, 2008. It is further

**ORDERED** that, notwithstanding the foregoing, Blue Bell is allowed to give to a charitable organization by no later than August 23, 2008, any “Mooo Tracks” ice cream that Blue Bell had already packaged as of 5:00 p.m. on Thursday, July 24, 2008, provided that the publicity for the charitable donation does not include in any manner the name “Mooo Tracks,” and the “Mooo Tracks” name is not described or promoted by the donee when the product is served. It is further

**ORDERED** that by no later than **August 11, 2008**, Blue Bell shall file, electronically under seal, a report under oath setting forth in detail the manner and form in which Blue Bell has complied or intends to comply with the provisions of this Preliminary Injunction. It is further

**ORDERED** that requirement for the posting of a bond by Denali pursuant to Rule 65(c) of the Federal Rules of Civil Procedure has been waived by Blue Bell, and no bond is necessary.

SIGNED at Houston, Texas, this 31<sup>st</sup> day of **July, 2008**.

A handwritten signature in black ink, reading "Nancy F. Atlas", written over a horizontal line.

Nancy F. Atlas  
United States District Judge